

# **BEFORE THE DIVISION OF INSURANCE**

## **STATE OF COLORADO**

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### **FINAL AGENCY ORDER O-06-030**

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#### **IN THE MATTER OF THE MARKET CONDUCT EXAMINATION OF DAIRYLAND INSURANCE COMPANY,**

##### **Respondent**

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**THIS MATTER** comes before the Colorado Commissioner of Insurance (the "Commissioner") as a result of a market conduct examination conducted by the Colorado Division of Insurance (the "Division") of Dairyland Insurance Company (the "Respondent"), pursuant to §§ 10-1-201 to 207, C.R.S. The Commissioner has considered and reviewed the market conduct examination report dated April 19, 2005 (the "Report"), relevant examiner work papers, all written submissions and rebuttals, and the recommendations of staff. The Commissioner finds and orders as follows:

#### **FINDINGS OF FACT**

1. At all relevant times, the Respondent was a corporation licensed by the Division to conduct all lines of property and casualty insurance.
2. In accordance with §§ 10-1-201 to 207, C.R.S., on April 19, 2005, the Division completed a market conduct examination of the Respondent. The period of examination was January 1, 2003 to December 31, 2003.
3. In scheduling the market conduct examination and in determining its nature and scope, the Commissioner considered such matters as complaint analyses, underwriting and claims practices, pricing, product solicitation, policy form compliance, market share analyses, and other criteria as set forth in the most recent available edition of the examiners' handbook adopted by the National Association of Insurance Commissioners, as required by § 10-1-203(1), C.R.S.
4. In conducting the examination, the examiners observed those guidelines and procedures set forth in the most recent available edition of the examiners' handbook adopted by the National Association of Insurance Commissioners and the Colorado insurance examiners handbook. The Commissioner also employed other guidelines and procedures that he deemed appropriate, pursuant to § 10-1-204(1), C.R.S.
5. The market conduct examiners prepared the Report. The Report is comprised of only the facts appearing upon the books, records, or other documents of the

Respondent, its agents or other persons examined, or as ascertained from the testimony of the Respondent's officers or agents or other persons examined concerning Respondent's affairs. The Report contains the conclusions and recommendations that the examiners find reasonably warranted based upon the facts.

6. Respondent delivered to the Division written submissions and rebuttals to the Report.
7. The Commissioner has fully considered and reviewed the Report, any and all of Respondent's submissions and rebuttals, and all relevant portions of the examiner's work papers.

### **CONCLUSIONS OF LAW AND ORDER**

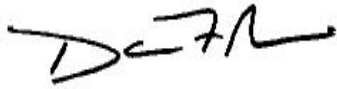
8. Unless expressly modified in this Final Agency Order (the "Order"), the Commissioner adopts the facts, conclusions and recommendations contained in the Report. A copy of the Report is attached to the Order and is incorporated by reference.
9. Issue A concerns the following violation: Failure, in some cases, of filings to comply with Colorado insurance law. The Respondent shall provide evidence that it has corrected its practices and procedures to ensure that all of its filings are in compliance with Colorado insurance law.
10. Issue B concerns the following violation: Failure, in some cases, of underwriting guidelines to comply with Colorado insurance law. The Respondent shall provide evidence demonstrating that it has corrected its practices and procedures to ensure that all of its underwriting guidelines are in compliance with Colorado insurance law.
11. Issue C concerns the following violation: Failure, in some cases, to certify forms and endorsements that comply with Colorado insurance law. The Respondent shall provide evidence demonstrating that it has corrected its practices and procedures to ensure that all forms and endorsements relating to private passenger automobile insurance are in compliance with Colorado insurance law as certified by the Respondent. The Division's records indicate that the Respondent has complied with the corrective actions ordered concerning this violation.
12. Issue D concerns the following violation: Failure, in some cases, to use a reason for nonrenewal that complies with Colorado insurance law. The Respondent shall provide evidence demonstrating that it has corrected its practices and procedures to ensure that it will no longer nonrenew insureds for reasons that are not in compliance with Colorado insurance laws. The Division's records indicate that the Respondent has complied with the corrective actions ordered concerning this violation.

13. Issue E concerns the following violation: Failure, in some cases, to provide insureds with a notice of premium increase due to the driving record of one or more persons insured, and to provide an opportunity for the insured to exclude that person(s) from coverage in compliance with Colorado insurance law. The Respondent shall provide evidence demonstrating that it has corrected its practices and procedures to ensure that notice of premium increase and the right to exclude the person(s) responsible for the premium increase is sent to insureds in compliance with Colorado insurance law. The Division's records indicate that the Respondent has complied with the corrective actions ordered concerning this violation.
14. Issue F concerns the following violation: Failure, in some cases, to use correct rating elements when rating private passenger automobile policies written in the State of Colorado in compliance with Colorado insurance law. The Respondent shall provide evidence demonstrating that it has corrected its practices and procedures to ensure that it uses correct rating elements when rating private passenger automobile policies written in Colorado in compliance with Colorado insurance law. The Division's records indicate that the Respondent has complied with the corrective actions ordered concerning this violation.
15. Issue G concerns the following violation: Failure, in some cases, to make PIP benefit payments within the time period required to comply with Colorado insurance law. The Respondent shall provide evidence demonstrating that it has corrected its practices and procedures to ensure PIP benefit payments are provided within the required time period in compliance with Colorado insurance law. The Division's records indicate that the Respondent has complied with the corrective actions ordered concerning this violation.
16. Issue H concerns the following information: Failure, in some cases, to notify providers and claimants in writing of the reason why a provider's claim was not paid within thirty (30) days of receipt of all documents that may be required for payment of PIP benefits in compliance with Colorado insurance law. The Respondent shall provide evidence demonstrating that it has corrected its practices and procedures to ensure that it has notified the claimant and provider of the reason(s) the claim was not paid within the required time period in compliance with Colorado insurance law. The Division's records indicate that the Respondent has complied with the corrective actions ordered concerning this violation.
17. Issue I concerns the following information: Failure, in some cases, to make correct payments on PIP claims in compliance with Colorado insurance law. The Respondent shall provide evidence demonstrating that it has corrected its practices and procedures to ensure correct payments are made on all PIP claims in compliance with Colorado insurance law. The Division's records indicate that the

Respondent has complied with the corrective actions ordered concerning this violation.

18. Pursuant to § 10-1-205(3)(d), C.R.S., Respondent shall pay a civil penalty to the Division in the amount of nine thousand five hundred and 00/100 dollars (\$9,500.00) for the cited violations of Colorado law. This fine was calculated in accordance with Division guidelines for assessing penalties and fines, including Division bulletin no. 1-98, issued on January 1, 1998.
19. Pursuant to § 10-1-205(4)(a), C.R.S., within sixty (60) days of the date of this Order, the Respondent shall file affidavits executed by each of its directors stating under oath that they have received a copy of the adopted report and related orders.
20. Unless otherwise specified in this Order, all requirements with this Order shall be completed within thirty (30) days of the date of this Order. Respondent shall submit written evidence of compliance with all requirements to the Division within the thirty (30) day time frame, except where Respondent has already complied, as specifically noted in the Order. Copies of any rate and form filings shall be provided to the rate and forms section with evidence of the filings sent to the market conduct section. All self audits, if any, shall be performed in accordance with the Division's document, 'Guidelines for Self Audits Performed by Companies' presented at the market conduct examination exit meeting. Unless otherwise specified in this Order, all self-audit reports must be received within ninety (90) days of the Order, including a summary of the findings and all monetary payments to covered persons.
21. This Order shall not prevent the Division from commencing future agency action relating to conduct of the Respondent not specifically addressed in the Report, not resolved according to the terms and conditions in this Order, or occurring before or after the examination period. Failure by the Respondent to comply with the terms of this Order may result in additional actions, penalties and sanctions as provided for by law.
22. Copies of the examination report, the Respondent's response, and this final Order will be made available to the public no earlier than thirty (30) days after the date of this Order, subject to the requirements of § 10-1-205, C.R.S.

**WHEREFORE:** It is hereby ordered that the findings and conclusions contained in the Report dated April 19, 2005, are hereby adopted and filed and made an official record of this office, and the above Order is hereby approved this 19th day of August, 2005.

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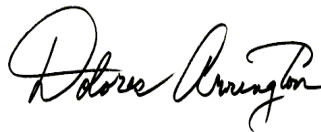
David F. Rivera  
Commissioner of Insurance

CERTIFICATE OF CERTIFIED MAILING

I hereby certify that on the 19th day of August, 2005, I caused to be deposited the **FINAL AGENCY ORDER No. O-06-030 IN THE MATTER OF THE MARKET CONDUCT EXAMINATION OF DAIRYLAND INSURANCE COMPANY**, in the United States mail via certified mailing with proper postage affixed and addressed to:

Mr. Robert W. Mueller, President  
Dairyland Insurance Company  
1800 North Point Drive  
Stevens Point, WI 54481-8020

Sue Phillips, Director of Corporate Compliance  
Dairyland Insurance Company  
1800 North Point Drive  
Stevens Point, WI 54481-8020

A handwritten signature in black ink, appearing to read "Dolores Arrington". The signature is fluid and cursive, with the first name "Dolores" being more prominent and the last name "Arrington" following in a similar style.

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Dolores Arrington, MA, AIRC, ACS  
Market Conduct Section  
Division of Insurance